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Right of peoples to self-determination

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Report of the Secretary-General

Summary

In its resolution 72/159, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-third session on the universal realization of the right of peoples to self-determination. The present report is submitted in accordance with that request.

The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report on the question (A/72/317).

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I. Introduction

1. The General Assembly, in paragraph 1 of its resolution 72/159, reaffirmed that the universal realization of the right of all peoples to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights.

2. The present report is submitted in accordance with paragraph six of resolution 72/159, in which the General Assembly requested the Secretary-General to report on the question at its seventy-third session.

3. The report provides a summary of the main developments relating to the realization of the right of all peoples to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report (A/72/317).

4. The report also includes reference to the consideration of the issue within the framework of the Human Rights Council, both in its resolutions and in the reports submitted to the Council by special procedures mandate holders and the Expert Mechanism on the Rights of Indigenous Peoples.

5. In addition, it includes reference to concluding observations issued by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which are based on their consideration of periodic reports submitted by the States parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in respect of the implementation of the right of all peoples to self-determination guaranteed in common article 1 of the two Covenants.

II. Security Council

6. During the reporting period, in accordance with Security Council resolution 2351 (2017), the Secretary-General submitted to the Council a report on the situation concerning Western Sahara (S/2018/277). The report covered developments since the previous report (S/2017/307) and provided a description of the situation on the ground, the status and progress of the political negotiations on Western Sahara, the implementation of Council resolution 2351 (2017) and the challenges to the operations of the United Nations Mission for the Referendum in Western Sahara and steps taken to address them. In his current report, the Secretary-General noted that, in his report of 2017, he had proposed that negotiating efforts be relaunched with a new dynamic and a new spirit, reflecting the Council's guidance, with the aim of reaching a "just, durable and mutually acceptable solution to the conflict in Western Sahara that will provide for the self-determination of the people of Western Sahara" (see S/2018/277, para. 77).

7. Having considered the report of the Secretary-General, the Security Council adopted resolution 2414 (2018). In paragraph 3 of the resolution, the Council called upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noted the role and responsibilities of the parties in that respect.

III. General Assembly

8. During the reporting period, in addition to its resolution on the universal realization of the right of peoples to self-determination (resolution 72/159), the General Assembly adopted a number of resolutions in which it addressed the issue of self-determination. The resolutions concerned Non-Self-Governing Territories, the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and the right of the Palestinian people to self-determination. In addition, in paragraph 7 (a) of its resolution 72/172, the Assembly affirmed that a democratic and equitable international order required, inter alia, the realization of the right of all peoples to self-determination, by virtue of which they could freely determine their political status and freely pursue their economic, social and cultural development.

A. Non-Self-Governing Territories

9. In its resolution 72/92, the General Assembly reaffirmed the right of the peoples of Non-Self-Governing Territories to self-determination and their right to the enjoyment of their natural resources and to dispose of those resources in their best interest. It affirmed the value of foreign economic investment undertaken in collaboration with the peoples of the Non-Self-Governing Territories and in accordance with their wishes in order to make a valid contribution to the socioeconomic development of the Territories, especially during times of economic and financial crisis. It reaffirmed the responsibility of the administering Powers under the Charter to promote the political, economic, social and educational advancement of the Non-Self-Governing Territories and reaffirmed the legitimate rights of their peoples over their natural resources. The Assembly reaffirmed its concern about any activities aimed at the exploitation of the natural resources that were the heritage of the peoples of the Non-Self-Governing Territories, including the indigenous populations, in the Caribbean, the Pacific and other regions, and of their human resources, to the detriment of their interests, and in such a way as to deprive them of their right to dispose of those resources. It reaffirmed the need to avoid any economic and other activities that adversely affected the interests of the peoples of the Non-Self-Governing Territories, and reminded the administering Powers of their responsibility and accountability vis-à-vis any detriment to the interests of the peoples of those Territories. The Assembly invited all Governments and organizations of the United Nations system to take all possible measures to ensure that the permanent sovereignty of the peoples of the Non-Self-Governing Territories over their natural resources was fully respected and safeguarded. It urged the administering Powers concerned to take effective measures to safeguard and guarantee the inalienable right of the peoples of the Non-Self-Governing Territories to their natural resources and to establish and maintain control over the future development of those resources, and requested the administering Powers to take all steps necessary to protect the property rights of the peoples of those Territories.

10. In its resolution 72/111, the General Assembly called upon the administering Powers, in accordance with resolutions on decolonization, to take all steps necessary to enable the peoples of the Non-Self-Governing Territories to exercise fully, as soon as possible, their right to self-determination, including independence, on a case-by-case basis. In its resolution 72/94, the Assembly invited all States to make, or continue to make, offers of study and training facilities to the inhabitants of those Territories that had not yet attained self-government or independence and, wherever possible, to provide travel funds to prospective students.

11. In its resolution 72/95 on the question of Western Sahara, the General Assembly expressed support for the process of negotiations initiated by the Security Council to achieve a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, and commended the efforts undertaken by the Secretary-General and his Personal Envoy for Western Sahara in that respect. It welcomed the commitment of the parties to continue to show political will and work in an atmosphere propitious for dialogue in order to enter into a more intensive phase of negotiations, in good faith and without preconditions.

12. In its resolution 72/96 on the question of American Samoa, the General Assembly reaffirmed the inalienable right of the people of American Samoa to self-determination, and also reaffirmed that it was ultimately for the people of American Samoa to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination. It took note of the work of the territorial Government with respect to moving forward on political status, local autonomy and self-governance issues with a view to making political and economic progress.

13. In its resolution 72/97 on the question of Anguilla, the General Assembly reaffirmed the inalienable right of the people of Anguilla to self-determination, and also reaffirmed that it was ultimately for the people of Anguilla to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

14. In its resolution 72/98 on the question of Bermuda, the General Assembly reaffirmed the inalienable right of the people of Bermuda to self-determination, and also reaffirmed that it was ultimately for the people of Bermuda to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

15. In its resolution 72/99 on the question of the British Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the British Virgin Islands to self-determination, and also reaffirmed that it was ultimately for the people of the British Virgin Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

16. In its resolution 72/100 on the question of the Cayman Islands, the General Assembly reaffirmed the inalienable right of the people of the Cayman Islands to self-determination, and also reaffirmed that it was ultimately for the people of the Cayman Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

17. In its resolution 72/101 on the question of French Polynesia, the General Assembly reaffirmed the inalienable right of the people of French Polynesia to self-

determination, and also reaffirmed that it was ultimately for the people of French Polynesia to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of French Polynesia of their right to self-determination in conformity with the legitimate political status options and to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination would be agreed.

18. In its resolution 72/102 on the question of Guam, the General Assembly reaffirmed the inalienable right of the people of Guam to self-determination, and also reaffirmed that it was ultimately for the people of Guam to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination. It called once again on the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in Guam law regarding Chamorro self-determination efforts, encouraged the administering Power and the territorial Government to enter into negotiations on the matter and stressed the need for continued close monitoring of the overall situation in the Territory.

19. In its resolution 72/103 on the question of Montserrat, the General Assembly reaffirmed the inalienable right of the people of Montserrat to self-determination, and also reaffirmed that it was ultimately for the people of Montserrat to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

20. In its resolution 72/104 on the question of New Caledonia, the General Assembly reaffirmed that it was ultimately for the people of New Caledonia to determine freely and fairly their future political status, and in that connection called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination in conformity with the legitimate political status options. The Assembly expressed the view that adequate measures for conducting the upcoming consultations on access to full sovereignty, including a just, fair, credible and transparent electoral roll, as provided for in the Nouméa Accord, were essential for the conduct of a free, fair and genuine act of self-determination consistent with the Charter and United Nations principles and practices. In that respect, it welcomed the continuous dialogue undertaken by the parties within the framework of the Committee of Signatories to the Nouméa Accord to establish the parameters for the conduct of a conclusive act of self-determination, including the setting of an electoral roll, as provided for in the Accord. It called upon the administering Power to consider developing an education programme to inform the people of New Caledonia about the nature of self-determination so that they might be better prepared to face a future decision on the matter. The Assembly urged all the parties involved, in the interest of the people of New Caledonia and within the framework of the Nouméa Accord, to maintain their dialogue in a spirit of harmony and mutual respect in order to continue to promote a framework for the peaceful progress of the Territory towards an act of

self-determination in which all options were open and the rights of all sectors of the population would be safeguarded, based on the principle that it was for the people of New Caledonia to choose how to determine their destiny.

21. In its resolution 72/105 on the question of Pitcairn, the General Assembly reaffirmed the inalienable right of the people of Pitcairn to self-determination, and also reaffirmed that it was ultimately for the people of Pitcairn to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination. It welcomed all efforts by the administering Power and the territorial Government to further devolve operational responsibilities to the Territory, with a view to gradually expanding self-government, including through the training of local personnel.

22. In its resolution 72/106 on the question of Saint Helena, the General Assembly reaffirmed the inalienable right of the people of Saint Helena to self-determination, and also reaffirmed that it was ultimately for the people of Saint Helena to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

23. In its resolution 72/107 on the question of Tokelau, the General Assembly acknowledged the decision of the General Fono in 2008 that consideration of any future act of self-determination by Tokelau would be deferred. It welcomed the cooperative attitude of the other States and territories in the region towards Tokelau and their support for its economic and political aspirations and its increasing participation in regional and international affairs.

24. In its resolution 72/108 on the question of the Turks and Caicos Islands, the General Assembly reaffirmed the inalienable right of the people of the Turks and Caicos Islands to self-determination, and also reaffirmed that it was ultimately for the people of the Turks and Caicos Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

25. In its resolution 72/109 on the question of the United States Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the United States Virgin Islands to self-determination, and also reaffirmed that it was ultimately for the people of the United States Virgin Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination.

B. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

26. In its resolution 72/158, the General Assembly urged all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their

territories and other territories under their control were not used for, and that their nationals did not take part in, the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in accordance with the right of peoples to self-determination. It requested the Working Group of the Human Rights Council on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to continue to study and identify sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and private military and security companies and their impact on human rights, particularly on the right of peoples to self-determination. It also requested the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and to render advisory services to States that were affected by those activities.

C. Right of the Palestinian people to self-determination

27. The right of the Palestinian people to self-determination, including the right to their independent State of Palestine, was reaffirmed by the General Assembly in its resolution 72/160. In the resolution, the Assembly also urged States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination. The Assembly also called for the realization of the Palestinian people's human rights, including the right to self-determination, in its resolutions 72/14, 72/84 and 72/87.

28. In its resolution 72/13, the General Assembly, having considered the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (A/72/35), requested the Committee, inter alia, to continue to exert all efforts to promote the realization of the inalienable rights of the Palestinian people, including their right to self-determination. The Assembly invited all Governments and organizations to extend their cooperation and support to the Committee in the performance of its tasks, recalling its repeated call for all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination, including the right to their independent State of Palestine.

29. The economic aspect of the right to self-determination, namely, the right of peoples to sovereignty over their natural resources, was reaffirmed by the General Assembly with regard to the Palestinian people in its resolution 72/240.

IV. Economic and Social Council

30. In its resolution 2017/31, the Economic and Social Council either recommended or requested a number of measures that specialized agencies and other organizations of the United Nations system should adopt in support of Non-Self-Governing Territories. The Council reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples, on a case-by-case basis.

V. Human Rights Council

A. Resolutions

31. At its thirty-fifth session, held from 6 to 23 June 2017, the Human Rights Council adopted resolution 35/20 on human rights and climate change. In the resolution, the Council emphasized that the adverse effects of climate change had a range of implications, both direct and indirect, for the effective enjoyment of human rights, including for the right to self-determination.

32. At its thirty-sixth session, held from 11 to 29 September 2017, the Human Rights Council adopted resolution 36/3 on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. In the resolution, the Council condemned mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat those activities posed to the integrity of and respect for the constitutional order of countries and the exercise of the right to self-determination. It urged all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination.

33. At its thirty-seventh session, held from 26 February to 23 March 2018, the Human Rights Council addressed the question of the realization of the right of the Palestinian people to self-determination in its resolutions 37/34, 37/35 and 37/36. In its resolution 37/34, the Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine. It confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination, and urged all States to adopt measures, as required, to promote the realization of the right to self-determination of the Palestinian people and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of that right. In its resolution 37/35, the Council stressed the need for the occupying Power to withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, so as to enable the Palestinian people to exercise their universally recognized right to self-determination. In its resolution 37/36, the Council called upon the occupying Power to put an end to all of the human rights violations linked to the presence of settlements, especially of the right to self-determination, and to fulfil its international obligations to provide effective remedy for victims.

B. Special procedures and the Expert Mechanism on the Rights of Indigenous Peoples

34. In her report to the General Assembly at its seventy-second session (A/72/186), the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples provided an assessment on the status of implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The Special Rapporteur concluded

that there had been limited progress in the actual implementation of the rights of indigenous peoples. That was observed in particular with regard to the core rights of indigenous peoples to self-determination and their rights to their lands, territories and resources (ibid., para. 86). In her report to the Council at its thirty-sixth session (A/HRC/36/46), the Special Rapporteur provided an analysis of the impacts of climate change and climate finance on indigenous peoples' rights. She noted that the denial of indigenous peoples' right to self-determination and to their economic, social and cultural rights was strongly linked to indigenous peoples' historical experiences of marginalization, dispossession, the environmental destruction of their ancestral lands and their lack of autonomy, and warned that unless climate finance recognized that inequality, it could contribute to the causes of poverty and further denial of the right to self-determination among indigenous communities (ibid., para. 41).

35. In his report to the Human Rights Council at its thirty-seventh session, the Independent Expert on the promotion of a democratic and equitable international order noted that a democratic and equitable international order was one in which peoples and nations enjoyed equitable representation, not only in the General Assembly, but also in regional and international financial institutions, in which, inter alia, they exercised their right to self-determination (see A/HRC/37/63, para. 12). He recalled that the right of peoples to self-determination was a fundamental principle of the international order affirmed in the Charter and in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and that timely dialogue for the realization of self-determination was an effective conflict-prevention measure (ibid., para. 14 (d)). He noted that the implementation of the right to self-determination was not exclusively within the domestic jurisdiction of the State concerned but was a legitimate concern of the international community (ibid., para. 33) and that any process aimed at self-determination should be accompanied by the participation and consent of the peoples concerned (ibid., para. 35).

36. In its report to the General Assembly at its seventy-second session, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination noted that in certain crises around the world, such as in occupied territories, the use of private security contractors to limit and prohibit people's right to liberty and free movement through deprivation of liberty was a means of deliberately undermining a people's right to self-determination (see A/72/286, para. 36). In its report to the Human Rights Council at its thirty-sixth session (A/HRC/36/47), the Working Group provided an overview of the findings of a global study conducted from 2013 to 2016 on the national legislation on private military and security companies in 60 States from all the regions of the world. The report concluded that it was necessary to fill existing gaps and promote international, regional and subregional agreements for the regulation of private military and security companies to effectively protect the rule of law, human rights and, especially in conjunction with the use of private military and security companies in extractive industries, the exercise of the right of peoples to self-determination (ibid., para. 64).

37. In his report to the seventy-second session of the General Assembly, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 stated that international human rights law, including the overarching right to self-determination, was integral to the application of the laws of occupation (see A/72/556, para. 23) and that the right of peoples to self-determination, recognized as a right *erga omnes* in international law, applied to all peoples under occupation and other forms of alien rule (ibid., para. 24). He added that the entrenched and unaccountable occupation — through its denial of territorial integrity, genuine self-governance, a sustainable economy and a viable path to independence —

substantively violated, and undermined, the right of the Palestinians to self-determination, the platform right that enabled the realization of many other rights (ibid., para. 62).

38. In his report to the Human Rights Council at its thirty-sixth session, the Special Rapporteur on the right to development recalled that Articles 1, 55 and 56 of the Charter established the foundations of the right to development by stating that the creation of conditions of stability and well-being were necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples (see A/HRC/36/49, para. 8). He also recalled that the Declaration on the Right to Development stated that the human right to development implied the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources (ibid., para. 9).

39. The Expert Mechanism on the Rights of Indigenous Peoples presented to the Human Rights Council at its thirty-sixth session a report (A/HRC/36/56) intended to highlight the main legal and policy trends in the past 10 years in the application of the United Nations Declaration on the Rights of Indigenous Peoples across the United Nations and regional and national human rights systems, and to contribute to its further implementation. The report noted that, despite many good practices, indigenous peoples in some regions, including in a number of States in Asia and Africa, still struggled for legal recognition and respect for self-determination, and recommended that States refrain from hindering or limiting self-determination initiatives and recognize and learn from indigenous peoples' own initiatives to advance the implementation of the Declaration at the national level (ibid., para. 74).

VI. Human rights treaty bodies

40. The right of all peoples to self-determination is affirmed in article 1, paragraph 1, of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is in that context that the right to self-determination has been addressed by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee[1] in their consideration of the periodic reports of States parties. The relevant concluding observations adopted during the reporting period are highlighted below.

A. Concluding observations by the Committee on Economic, Social and Cultural Rights

41. In its concluding observations on the fifth periodic report of Australia (E/C.12/AUS/CO/5), adopted at its sixty-first session, held from 29 May to 23 June 2017, the Committee on Economic, Social and Cultural Rights expressed concern about insufficient compliance with the principle of free, prior and informed consent of indigenous peoples, including in the context of developing the white paper on the development of northern Australia and of the approval of extractive projects on lands owned or traditionally used by indigenous peoples (ibid., para. 15 (d)). The Committee recommended that Australia ensure that the principle of free, prior and informed consent was incorporated into the Native Title Act 1993 and into other legislation as appropriate and was fully implemented in practice (ibid., para. 16 (e)).

[1] See also Human Rights Committee, general comment No. 12 (see HRI/GEN/1/Rev.9 (Vol. I)).

42. In its concluding observations on the sixth periodic report of Colombia (E/C.12/COL/CO/6), adopted at its sixty-second session, held from 18 September to 6 October 2017, the Committee noted the efforts made to ensure the enjoyment of economic, social and cultural rights by indigenous peoples and Afro-Colombians, but expressed remaining concern regarding reports of inadequate implementation of the process of prior consultation with a view to obtaining free, prior and informed consent, particularly in relation to natural resource development and exploitation projects likely to affect their territories (ibid., para. 17). The Committee recommended that Colombia carry out a broad process of consultation and participation in the drafting and adoption of the draft statutory act on prior consultation; ensure that the legislation complied with international standards, including the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization and the United Nations Declaration on the Rights of Indigenous Peoples; and ensure that consultations held with a view to obtaining indigenous and Afro-Colombian peoples' free, prior and informed consent to decisions that might affect the exercise of their economic, social and cultural rights were conducted as an unavoidable and timely step, taking into account the cultural differences of each people and carrying out studies of the impact that such measures might have on the exercise of their rights (ibid., para. 18 (a)–(b)).

43. In its concluding observations on the combined fifth and sixth periodic reports of Mexico (E/C.12/MEX/CO/5-6), adopted at its sixty-second session, the Committee expressed concern at the fact that protocols on prior consultation were not followed systematically, partly because they were non-binding, and that therefore the right of indigenous peoples to prior consultation with a view to obtaining their free, prior and informed consent was not fully respected, particularly when it came to the execution of economic projects and the development of natural resources. In addition, the Committee was concerned by the negative impact of such projects on the effective enjoyment of economic, social and cultural rights by the indigenous peoples concerned (ibid., para. 12). The Committee recommended that Mexico ensure that indigenous peoples were consulted in advance in a systematic and transparent manner with a view to obtaining their free, prior and informed consent with respect to decisions likely to affect them, especially before it granted permits for economic activities in territories that they had traditionally owned, occupied or used. In that regard, the Committee encouraged Mexico to establish, in consultation with indigenous peoples, effective, appropriate and legally binding protocols that fully guaranteed respect for that right or, where appropriate, to apply existing protocols, taking into account the cultural characteristics and customs and practices of each indigenous community and in accordance with applicable international standards (ibid., para. 13 (a)).

44. In its concluding observations on the sixth periodic report of the Russian Federation (E/C.12/RUS/CO/6), adopted at its sixty-second session, the Committee expressed concern at the limited prior consultation with indigenous peoples, especially in the context of extractive activities carried out on lands owned or traditionally used by them. The Committee was concerned that the requirement of free, prior and informed consent of indigenous peoples was rarely complied with in practice (ibid., para. 14). It recommended that the Russian Federation, inter alia, take effective measures to ensure compliance with the requirement of free, prior and informed consent of indigenous peoples, notably in the context of extractive activities, improve the legislative and institutional provisions relating to projects for the exploitation of natural resources, in consultation with indigenous peoples, and strengthen its capacity to oversee extractive industries to ensure that they did not have a negative impact on the rights of indigenous peoples and their territories and natural resources (ibid., para. 15 (b)–(c)).

45. In its concluding observations on the initial report of Bangladesh (E/C.12/BGD/CO/1), adopted at its sixty-third session, held from 12 to 29 March 2018, the Committee expressed concern about the absence of explicit constitutional and legislative recognition of the rights of those who self-identified as indigenous peoples in the State, at repeated reports of expropriation of ancestral land of indigenous peoples where the requirements of free, prior and informed consent were not met and at the lack of appropriate mechanisms to enable affected indigenous persons and communities to take part in decision-making processes (ibid., para. 15). It recommended that Bangladesh, inter alia, ensure that the requirements of free, prior and informed consent were met in all cases of expropriation of land of indigenous peoples and provide effective mechanisms through which indigenous peoples could seek remedies for the deprivation of ancestral lands (ibid., para. 16 (c)–(d)).

46. In its concluding observations on the fourth periodic report of New Zealand (E/C.12/NZL/CO/4), adopted at its sixty-third session, the Committee expressed concern at the limited efforts that had been made to ensure the meaningful participation of the Maori people in decision-making concerning laws that affected their rights, including land and water rights. It was also concerned that the principle of free, prior and informed consent was not systematically implemented, in particular in the context of development and extractive activities carried out on territories owned or traditionally used by the Maori population (ibid., para. 8). The Committee recommended that New Zealand, inter alia, take effective measures to ensure compliance with the requirement of obtaining the free, prior and informed consent of indigenous peoples, notably in the context of extractive and development activities, and conduct social, environmental and human rights impact assessments prior to granting licences for extractive and development activities and during operations (ibid., para. 9 (e)).

B. Concluding observations by the Human Rights Committee

47. At its 122nd session, held from 12 March to 6 April 2018, the Human Rights Committee adopted concluding observations on the seventh periodic report of Norway (CCPR/C/NOR/CO/7). The Committee expressed concern that, inter alia, the right to effective participation through consultations to obtain free, prior and informed consent was not yet granted in law or ensured in practice; a strong legislative framework ensuring land and resource rights to the Sami peoples, including fishing and reindeer husbandry, was lacking; and the Government had not yet followed up on the proposals of the Sami Rights Committee from 2007 on land and resource rights outside of Finnmark (ibid., para. 36). The Committee recommended that Norway, inter alia, ensure meaningful consultation with the Sami peoples in practice and adopt a law for consultations with a view to obtaining their free, prior and informed consent, in consultation with them; enhance the legal framework on Sami land, fishing and reindeer rights, ensuring in particular that fishing rights were recognized by law; and ensure effective and speedy follow-up to the proposals of the Sami Rights Committee of 2007 regarding land and resource rights in Sami areas outside of Finnmark (ibid., para. 37 (b) and (d)–(e)).

VII. Conclusions

48. **It is among the purposes of the United Nations, elaborated in Article 1 of the Charter, "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace". The right of peoples to self-determination is also enshrined in article 1 of both the International**

Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which states that all peoples have the right to self-determination and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

49. During the reporting period, the main organs of the United Nations, including the Security Council, the General Assembly and the Economic and Social Council, continued to discuss and adopt resolutions that referred to the right to self-determination, including resolutions concerning Non-Self-Governing Territories, the use of mercenaries and the right of the Palestinian people to self-determination. The Human Rights Council, a subsidiary organ of the Assembly, also continued to discuss and adopt resolutions that referred to that right.

50. The special procedures of the Human Rights Council and the Expert Mechanism on the Rights of Indigenous Peoples also discussed the implementation of the right of peoples to self-determination, including in relation to the human rights challenges faced by indigenous peoples, and its importance as a fundamental principle of international order.

51. The human rights treaty bodies addressed the right of peoples to self-determination through concluding observations on the periodic reports submitted by States parties to relevant treaties.

52. All States have an obligation to promote the realization of the right to self-determination and to respect that right, in conformity with the provisions of the Charter of the United Nations. In addition, as noted by the Human Rights Committee in relation to the International Covenant on Civil and Political Rights, the current 171 States parties to the Covenant should take positive action to facilitate the realization of and respect for the right of peoples to self-determination.[2] Such positive action must be consistent with the obligations of States under the Charter and international law. In particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination. The effective implementation of the right of peoples to self-determination will contribute to greater enjoyment of human rights, peace and stability, and thereby prevent conflict.

[2] See Human Rights Committee, general comment No. 12, para. 6 (see HRI/GEN/1/Rev.9 (Vol. I)); see also Committee on the Elimination of Racial Discrimination, general recommendation XXI, para. 3 (see HRI/GEN/1/Rev.9 (Vol. II)).